

REMARKS

Support for new claim 18 can be found, for example, in Examples 1, 2, 6, 7, 9 and 10. Support for new claim 19 can be found, for example, in original claim 2. Support for new claim 20 can be found, for example, in original claim 3. No new matter has been added.

Rejections under 35 USC §112

Claims 1-17 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner alleges there is no support for the limitation comprising "contains essentially no emulsifier" as recited in claim 1.

The phrase "essentially no emulsifying agent", is simply making literal what is already inherent. A skilled worker would inherently know that no emulsifier is needed because the composition contains no water and is water resistant. There is a clear basis of support in the original disclosure which states, on line 1 of the specification, that the complex is water resistant. Furthermore, the original claims recite a "water repellent" polyester and a "water absorbing" powder. Additionally, none of the examples in the specification contain an emulsifier. There is no water phase and thus a skilled worker would understand that an emulsifier is not needed.

Thus, the rejection under 35 USC §112 should be withdrawn.

Rejections under 35 USC §103

Claims 1-10, 12-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 6324703 B1). Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 6324703 B1), as applied to claims 1-10, 12-17, and further in view of Lennon et al. (US 2003/0165451-previously presented). The rejections are respectfully traversed.

Contrary to the Examiner's assertion on page 5 of the Office Action, Chen does not meet the limitations of (ii) (i.e., a cross-linked polyester consisting of a polyol and a dicarbonic acid). Col. 23, lines 33-56 discloses compounds which can be used as component V in the '703 compositions, i.e. the crystalline or semi-crystalline polymers.

Polyurethanes are disclosed as one example, but polyurethanes are not polyesters. A polyurethane is prepared by reacting diols or polyols with polyisocyanates in an addition reaction. Thus, all substance given in the Chen paragraph cited by the Examiner are polyols or polyisocyanates. In contrast, component (ii) of the present invention is a cross-linked polyester consisting of a polyol and a dicarbonic acid. Chen does not disclose the use of cross-linked polyesters consisting of a polyol and a dicarbonic acid. In addition, the Chen reference does not provide a skilled worker with amounts of any components, much less the amounts of five components that work together to form a climaproof complex.

Thus, Chen neither discloses nor anticipates the combination of the gelled oil composition (i) and the cross-linked polyester (ii). As previously discussed, and as noted on page 4, of the specification, “the gelled oil composition and the water-repellent cross-linked polyester are complementary in their properties...the overall effect of which exceeds the individual effect thus providing a synergistic effectiveness.” Chen et al. does not recognize this effect.

With respect to claim 11, the Examiner further relies upon Lennon. This rejection is untenable at least for the reasons discussed above for the primary reference.

Taken together the references would in no way lead one skilled in the art to arrive at the complex of the present invention. Thus, it is respectfully requested that the rejections under 35 USC §103 be withdrawn.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Attorney Docket No.:GULDE-69

Date: **9 February 2009**

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